

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MAHMOUD KHALIL,

Petitioner,

v.

WILLIAM P. JOYCE, et al.,

Respondents.

No. 25-cv-01963 (MEF) (MAH)

ORDER

* * *

The Petitioner filed the last of his briefing as to the motion for preliminary injunction, see ECF 175, on April 6. The Court has reviewed the parties' briefing, and is focused, for now, on the jurisdictional issues alluded to in the Court's Order at ECF 170 and in the parties' briefing.

The parties shall supplement their briefing as to the motion for preliminary injunction.

* * *

First, each party shall file a letter of 3-4 single-spaced pages. It shall explain whether an Immigration Judge considering a charge of removal is legally empowered to build a factual record tailored for eventual review of a legal issue by the relevant Court of Appeals that the Immigration Judge is not itself empowered to resolve.

The Supreme Court has undertaken such an analysis in an arguably relevant context. See Elgin v. Dep't of Treasury, 567 U.S. 1, 20 (2012) (discussing the power of the Merit Systems Protection Board to build a factual record as to whether a statute is unconstitutional --- an issue the Merit Systems Protection Board perhaps could not itself take up, but the Court of Appeals could).

Second, each party shall file a letter of 2-3 single-spaced pages. It shall explain whether an Immigration Judge considering a charge of removal is legally empowered to resolve each of the three issues as to which the Petitioner has moved

for a preliminary injunction. See ECF 67 at 25.

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The first letter shall be filed by each party on or before April 10 at noon. The second letter shall be filed by each party on or before April 11 at 9:00am.

The letters are legal briefs. They may include as attachments any difficult-to-find legal sources. But they may not include any other attachments.

Each letter shall collect and describe in detail agency case law (Immigration Judge and BIA decisions), and shall also describe agency regulations, as well as any other relevant legal sources. (The Elgin Court, for example, focused closely on those sorts of sources. See 567 U.S at 13, 16-18.)

IT IS on this 8th day of April, 2025, so **ORDERED**.



Michael E. Farbiarz, U.S.D.J.